

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

ROGER MANN, an individual;
SHERRIE MANN, an individual,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. **1:13-cv-01827-AWI-SKO**

Related Case No. **1:13-cv-00666-AWI-SKO**

**STIPULATION TO CONTINUE
SCHEDULING CONFERENCE; ORDER
THEREON**

Defendant UNITED STATES OF AMERICA, Plaintiffs ROGER MANN and SHERRIE MANN, and Defendant DNC PARKS & RESORTS AT YOSEMITE, INC. and related entities (collectively, the “Parties”) by and through their counsel of record in this action, hereby agree and stipulate as follows:

To continue the March 20, 2014 deadline to file a Joint Scheduling Report until June 20, 2014 and to continue the Scheduling Conference currently set for March 27, 2014 until June 27, 2014.

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I.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

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MDL Motion:

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Plaintiffs Roger Mann and Sherrie Mann filed their complaint in the United States District

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Court Eastern District of California on November 12, 2013 against Defendant United States of

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America (Case No. 1:13-cv-01827-AWI-SAB). As detailed within the complaint, this case

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involves damages arising from the contraction of the Hantavirus. (Complaint, ¶10). On

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November 13, 2013, this Court issued an Order Setting a Mandatory Scheduling Conference for

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February 25, 2014. Defendant United States of America filed its answer to Plaintiffs' complaint

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on January 27, 2014.

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Other plaintiffs have filed related Hantavirus litigation against the USA. Since filing an

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answer in this matter, Defendant United States of American has received an amended pleading

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alleging similar factual information in a Hantavirus case filed in Middle District of Pennsylvania

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(case No.: 4:13-CV-2611), a new hantavirus complaint against Defendant USA in the Eastern

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District of California (case No.: 1:14-at-00143), and two similar cases in the Northern District of

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California (related cases No.: 3:14-cv-00451-NC and No.: 3:14-cv- 00591-NC).

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Based on these known cases, along with future anticipated related actions pending in

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different districts covering one or more common questions of fact, Defendant United States of

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America filed an Multi District Litigation petition to transfer of all actions to the Eastern District

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of California for Multidistrict Litigation pursuant to 28 U.S.C. § 1407 (MDL Case No. 2532).

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Based on information and belief, the MDL panel will hear the United States' motion to transfer

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on May 29, 2014.

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If the transfer request is approved, a Multidistrict Litigation panel will assist the parties in

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resolving disputed facts, ruling on defenses, coordinating discovery deadlines, and setting pre-

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trial matters. As noted within 28 U.S.C. § 1407, the transfers for such proceedings is intended for

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the convenience of parties and witnesses and will promote the just and efficient conduct of such

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actions. As a result, the parties in this action originally stipulated that it may be premature to

agree upon items #1-13 as requested within this court's November 13, 2013 scheduling order.

1 The Court approved a stipulation on February 13, 2014. (Docket #10).

2 Related Mann Case:

3 After an executed and Court approved stipulation in Case No. 1:13-cv-01827-AWI-SAB,
4 Defendant DNC PARKS & RESORTS AT YOSEMITE, INC. (and related entities) notified this
5 Court of a related case filed by the same Mann Plaintiffs against DNC entities. (Docket #11).
6 After receipt of this notice, on February 20, 2014, this Court ordered the two Mann cases related
7 and reassigned the US action to Judge Oberto. (Docket #12). On February 21, 2014, Judge
8 Oberto advanced the previously stipulated approved May 6, 2014 initial scheduling conference to
9 the dates scheduled within case No. 1:13-cv-00666-AWI-SKO. (Docket #13).

10 As the issues related to MDL still apply to both Mann cases, the parties stipulate that it
11 may be premature to agree upon items detailed within Judge Oberto's scheduling order currently
12 set for March 27, 2014.

13 In addition, in the case formerly numbered 1:13-cv-00666-AWI-SKO, Defendant DNC
14 PARKS & RESORTS AT YOSEMITE, INC. filed a motion to dismiss. This motion was
15 submitted for decision on 10/13/13. As Plaintiffs MANN and Defendant DNC PARKS &
16 RESORTS AT YOSEMITE, INC. are still awaiting receipt of the court's ruling on the motion to
17 dismiss, the parties stipulate that the currently set scheduling conference in this case may be
18 premature.

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20 **II.**
21 **AUTHORITY FOR STIPULATION**

22 Based on this procedural history and anticipated future handling, pursuant to Federal
23 Rules of Civil Procedure Rule 16(b), good cause exists to extend the deadline to file a Joint
24 Scheduling Report and good cause exists to continue the Scheduling Conference until the dates
25 requested by the parties or until dates convenient within this Court's calendar.

26 Pursuant to Local Rule 144(d), the parties sought to obtain a necessary extension from the
27 Court as soon as the need for an extension became apparent. Pursuant to Local Rule 144(b), one
28 related prior stipulation regarding the Scheduling Conference has been executed by the parties but

1 has since been altered after notice of related case.

2 IT IS SO STIPULATED.

3 Dated: March 12, 2014

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ARCHER NORRIS APLC

/s/ K.C. Ward

Kenneth C. Ward
Attorneys for Defendants UNITED STATES
OF AMERICA, DEPARTMENT OF JUSTICE
and NATIONAL PARK SERVICE

Dated: March 12, 2014

CALLAHAN, THOMPSON, SHERMAN &
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ROBERT W. THOMPSON,
Attorneys for Plaintiffs
ROGER MANN and SHERRIE MANN

Dated: March 12, 2014

PHILLIPS LYTLE, LLP

/s/ Jennifer Shah

JENNIFER SHAH
Attorneys for Defendant DNC PARKS &
RESORTS AT YOSEMITE, INC. (and related
entities)

ORDER

Pursuant to the parties' stipulation and for good cause showing, IT IS HEREBY
ORDERED that:

1. The scheduling conference currently set for March 27, 2014, in *Mann v. USA*, No. 1:13-cv-01827-AWI-SKO, and related case *Mann v. DNC Parks & Resorts at Yosemite, Inc., et al.*, No. 1:13-cv-00666-AWI-SKO is CONTINUED to Thursday,

1 June 26, 2014, at 9:30 a.m.;¹ and

2 2. In both *Mann v. USA*, No. 1:13-cv-01827-AWI-SKO, and related case *Mann v. D*
3 *NC Parks & Resorts at Yosemite, Inc.*, et al., 1:13-cv-00666-AWI-SKO, the parties
4 shall file a joint scheduling report on or before June 19, 2014.

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7 IT IS SO ORDERED.

8 Dated: March 18, 2014

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10 /s/ **Sheila K. Oberto**
11 UNITED STATES MAGISTRATE JUDGE

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1 The parties requested the scheduling conference be continued to Friday, June 27, 2014; that date has been modified
by one day due to the Court's calendar.